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SUBJECT: SUPREME COURT SUSPENDS TWO MAJOR CRIMINAL CASES

¶1. (SBU) SUMMARY: The Chief Justice of the Albanian Supreme Court, Thimio Kondi, issued two suspension decisions in December 2007 that froze the application of criminal sentences on two trafficking-related cases pending the final decision of the Supreme Court. Kondi's decision froze the enforcement of the final criminal conviction on a human trafficking case involving two individuals who exploited several women for prostitution. In another decision, Chief Justice Kondi suspended the application of the conviction against a high profile fugitive involved in a cigarette smuggling case. Both decisions aroused protests from Serious Crime prosecutors and the media. Although this is not a trend, the two suspensions are disturbing. END SUMMARY.

¶2. (U) The Serious Crimes Prosecution Office successfully prosecuted an important anti-trafficking case related to the trafficking of women for prostitution and the use of criminal proceeds to fund businesses in Albania. Fatmir Tahiraj and Arjan Kane, from Fier, Albania, were engaged in prostitution trafficking since 1997 and used the proceeds to build large businesses in Tirana and Fier. Their method of trafficking was to marry Albanian women and then take them to Italy where they were forced into prostitution. On December 11, 2007, the Serious Crimes Appeals Court sentenced the two individuals to 20 years in prison on charges of prostitution exploitation in aggravated circumstances and confiscated their business assets in Tirana and Fier. Kane is in custody, but Tahiraj remains a fugitive.

¶3. (U) The case involved cases of three women, all of whom were married or engaged to the defendants. The women testified before prosecutors in Albania and Italy that they had been pushed to prostitution in Italy. One woman was threatened by Tahiraj that if she did not make a certain amount of money each day he would kill her relatives in Albania. Under extreme physical and psychological pressure, she was forced to continue as a prostitute for more than two years. The prosecution of the case involved extensive cooperation with Italian judicial authorities because the crimes occurred in both Italy and Albania. Two of the women continued to live in Italy.

¶4. (SBU) Following a request by Tahiraj on December 26, 2007, Chief Justice Kondi suspended the decision of the Serious Crimes Appeals Court as it related to the confiscation of Tahiraj's assets. Judge Kondi used a provision in the Criminal Procedure Code that gives the right to the Supreme Court Chief to freeze Appeals Court criminal decisions until final hearing by the Court. While this procedure is a normal practice in civil cases, this was the first time that such a decision on a criminal case came to our attention.

¶5. (U) On December 31, 2007, Chief Justice Kondi issued another suspension order on a high profile cases related to cigarette trafficking through the port of Durres. On June 22, 2006, the Serious Crimes Court had sentenced Ndoc Gjergji to five years in prison on charges of trafficking large quantities of cigarettes

through the port of Durres. Ndoc Gjergji was part of a violent trafficking group that used the Port of Durres to smuggle large quantities of cigarettes and other substances into Albania. Other individuals convicted in this investigation included Leonard Koka, the brother of then-mayor of Durres and a close associate to former Prime Minister Fatos Nano. Ndoc Gjergji has been a fugitive since 2005.

¶6. (U) In Kondi's December 2007 suspension decision, he claimed that the execution of the criminal decision against Gjergji would create significant problems for Gjergji's family. Following Kondi's decision, Ndoc Gjergji's name was removed from the list of people wanted by the Police and he is considered by the court a free man until a final verdict by the Supreme Court on his appeal.

¶7. (SBU) These decisions were unusual not only because there have not been a great many suspensions approved by the court, but also because they provided lenient measures to fugitives that have tried to escape justice for several years. Judge Kondi's term in office expires in May 2008.

¶8. (SBU) COMMENT: While these two cases do not suggest a trend, they are disturbing in light of their relation to two serious criminal cases, one involving human trafficking. They clearly send the wrong signal at a time when Albania is claiming to be focused on judicial reform and eradication of organized crime. While the decisions by the Supreme Court are negative, they highlight the success of the Serious Crime Prosecutors Office and Serious Crimes Court, both of which have established a solid crime-fighting reputation since their establishment in 2004.

WITHERS